

AMENDED IN ASSEMBLY MAY 18, 2010

AMENDED IN ASSEMBLY MAY 3, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 1900

Introduced by Assembly Member Skinner
(Coauthors: Assembly Members Chesbro, Bonnie Lowenthal, and
Ma)
(Coauthor: Senator Liu)

February 16, 2010

An act to amend Sections 5007.7 and 6030 of the Penal Code, and to amend Sections 222 and 1774 of the Welfare and Institutions Code, relating to inmates.

LEGISLATIVE COUNSEL'S DIGEST

AB 1900, as amended, Skinner. Pregnant inmates and wards: least restrictive restraints.

Existing law requires the Corrections Standards Authority to establish minimum standards for state and local correctional facilities and to review those standards biennially and make any appropriate revisions, as specified.

This bill would require that the standards, ~~by January 1, 2012,~~ ensure that ~~at no time shall~~ women who are pregnant ~~are~~ *shall not be* shackled by the wrists, ankles, or both, *during any transport, and during labor, delivery, or recovery after birth*, except that the least restrictive restraints possible may be used when deemed necessary for the inmate, consistent with the legitimate security needs of the inmate, the staff, and the public.

Under existing law, pregnant inmates of the Department of Corrections and Rehabilitation, wards of the Department of Corrections and

Rehabilitation, Division of Juvenile Facilities, and wards in the custody of a local juvenile facility, are to be transported in the least restrictive way possible when being taken to a hospital for purposes of childbirth.

This bill would prohibit inmates and wards of these facilities who are known to be pregnant from being shackled by the wrists, ankles, or both, ~~including during transport~~, *during any transport, and during* labor, delivery, and recovery ~~except when~~ *unless* deemed necessary for the ~~inmate or ward safety and security of the inmate, the staff, and the public~~. If restraints are deemed necessary during *labor, delivery, recovery after birth, or* transport, this bill would allow the person to be restrained in the least restrictive way possible, consistent with the legitimate security needs of each inmate or ward, the staff, and the public ~~when transported to and from their respective facilities~~.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) California has the third largest population of incarcerated
- 4 women in the country. Tens of thousands of women go through
- 5 county jails every year and an average of 4 to 7 percent are
- 6 pregnant at some point in their custody.
- 7 (b) Using restraints that significantly limit a pregnant inmate's
- 8 mobility can cause serious and undue health risks to the woman
- 9 and her pregnancy.
- 10 (c) Potentially harmful methods of restraint include, but are not
- 11 limited to, shackling by the ankles, in front of the body, across the
- 12 belly and by the wrists, by the wrists behind the inmate's back, or
- 13 to another person.
- 14 (d) To avoid threatening the health of pregnant women and
- 15 potential legal challenges, it is critical that policies are adopted
- 16 ensuring that restraints are properly used with this vulnerable
- 17 population.
- 18 (e) The health and safety of pregnant inmates shall be a primary
- 19 concern of all adult and juvenile state and local correctional and
- 20 detention facilities.
- 21 (f) To avoid threatening the health of pregnant women and
- 22 potential legal challenges, it is critical that adult and juvenile state

1 and local correctional and detention facilities develop policies that
2 ensure that inmates who are known to be pregnant are restrained
3 in the least restrictive way possible, consistent with the legitimate
4 security needs of the inmate, for purposes of transportation to and
5 from a correctional facility.

6 (g) These policies must meet the minimum standards established
7 by the Corrections Standards Authority for the proper use of
8 restraints on pregnant inmates during transport, as established
9 pursuant to Section 6030.

10 SEC. 2. Section 5007.7 of the Penal Code is amended to read:

11 5007.7. (a) ~~At no time shall an~~ *An* inmate known to be pregnant
12 *shall not* be shackled by the wrists, ankles, or both, ~~including~~
13 *during any transport to and from a state or local correctional*
14 *facility, including, but not limited to transport to and from a*
15 *hospital or courthouse, during labor, during delivery, and while*
16 *in recovery after giving birth, unless deemed necessary for the*
17 *safety and security of the inmate, the staff, and the public.* ~~For~~
18 ~~purposes of transport to and from a state or local correctional~~
19 ~~facility, restraints may be used on a pregnant inmate only when~~
20 ~~deemed necessary for the inmate.~~ *In these cases, the least* *In cases*
21 *where restraints are deemed necessary, the least* restrictive
22 restraints possible shall be used, consistent with the legitimate
23 security needs of each inmate, the staff, and the public. Upon
24 arrival at the hospital, once the inmate has been declared by the
25 attending physician to be in active labor, the inmate shall not be
26 shackled by the wrists, ankles, or both, unless deemed necessary
27 for the safety and security of the inmate, the staff, and the public.

28 SEC. 3. Section 6030 of the Penal Code is amended to read:

29 6030. (a) The Corrections Standards Authority shall establish
30 minimum standards for state and local correctional facilities. The
31 authority shall review those standards biennially and make any
32 appropriate revisions.

33 (b) The standards shall include, but not be limited to, the
34 following: health and sanitary conditions, fire and life safety,
35 security, ~~transport~~, rehabilitation programs, recreation, treatment
36 of persons confined in state and local correctional facilities, and
37 personnel training.

38 (c) The standards shall require that at least one person on duty
39 at the facility is knowledgeable in the area of fire and life safety
40 procedures.

(d) The standards shall also include requirements relating to the acquisition, storage, labeling, packaging, and dispensing of drugs.

(e) The standards shall require that inmates who are received by the facility while they are pregnant are provided all of the following:

(1) A balanced, nutritious diet approved by a doctor.

(2) Prenatal and post partum information and health care, including, but not limited to, access to necessary vitamins as recommended by a doctor.

(3) Information pertaining to childbirth education and infant care.

(4) A dental cleaning while in a state facility.

(f) The standards shall provide that ~~at no time shall~~ a woman known to be pregnant *shall not* be shackled by the wrists, ankles, or both, ~~including~~ during any transport to and from a state or local correctional facility, during labor, during delivery, and while in recovery after giving birth, except as provided in Section 5007.7. *For purposes of this section, transportation to and from a state or local correctional facility includes, but is not limited to, transport, to and from a hospital or courthouse.*

(g) In establishing minimum standards, the authority shall seek the advice of the following:

(1) For health and sanitary conditions:

The State Department of Health Services, physicians, psychiatrists, local public health officials, and other interested persons.

(2) For fire and life safety:

The State Fire Marshal, local fire officials, and other interested persons.

(3) For security, rehabilitation programs, recreation, and treatment of persons confined in correctional facilities:

The Department of Corrections and Rehabilitation, state and local juvenile justice commissions, state and local correctional officials, experts in criminology and penology, and other interested persons.

(4) For personnel training:

The Commission on Peace Officer Standards and Training, psychiatrists, experts in criminology and penology, the Department of Corrections and Rehabilitation, state and local correctional officials, and other interested persons.

1 (5) For female inmates and pregnant inmates in local adult and
2 juvenile facilities:

3 The California State Sheriffs' Association, the Chief Probation
4 Officers' Association of California, and other interested persons.

5 SEC. 4. Section 222 of the Welfare and Institutions Code is
6 amended to read:

7 222. (a) Any female in the custody of a local juvenile facility
8 shall have the right to summon and receive the services of any
9 physician and surgeon of her choice in order to determine whether
10 she is pregnant. If she is found to be pregnant, she is entitled to a
11 determination of the extent of the medical services needed by her
12 and to the receipt of those services from the physician and surgeon
13 of her choice. Any expenses occasioned by the services of a
14 physician and surgeon whose services are not provided by the
15 facility shall be borne by the female.

16 (b) ~~At no time shall a~~ A ward known to be pregnant *shall not*
17 *be shackled by the wrists, ankles, or both, including during any*
18 *transport to and from a local juvenile facility, including, but is not*
19 *limited to, transport to and from a hospital or courthouse, during*
20 *labor, during delivery, and while in recovery after giving birth,*
21 *unless deemed necessary for the safety and security of the ward,*
22 *the staff, and the public. For purposes of transport to and from a*
23 *local juvenile facility, restraints may be used on a pregnant ward*
24 *only when deemed necessary for the ward. In these* *In cases where*
25 *restraints are deemed necessary, the least restrictive restraints*
26 *possible shall be used, consistent with the legitimate security needs*
27 *of each ward, the staff, and the public. Upon arrival at the hospital,*
28 *once the ward has been declared by the attending physician to be*
29 *in active labor, the ward shall not be shackled by the wrists, ankles,*
30 *or both, unless deemed necessary for the safety and security of the*
31 *ward, the staff, and the public.*

32 (c) For purposes of this section, "local juvenile facility" means
33 any city, county, or regional facility used for the confinement of
34 juveniles for more than 24 hours.

35 (d) The rights provided to females by this section shall be posted
36 in at least one conspicuous place to which all female wards have
37 access.

38 SEC. 5. Section 1774 of the Welfare and Institutions Code is
39 amended to read:

1 1774. (a) Any female who has been committed to the
2 Department of Corrections and Rehabilitation, Division of Juvenile
3 Facilities shall have the right to summon and receive the services
4 of any physician and surgeon of her choice in order to determine
5 whether she is pregnant. The director may adopt reasonable rules
6 and regulations with regard to the conduct of examinations to
7 effectuate that determination.

8 (b) If she is found to be pregnant, she is entitled to a
9 determination of the extent of the medical services needed by her
10 and to the receipt of those services from the physician and surgeon
11 of her choice. Any expenses occasioned by the services of a
12 physician and surgeon whose services are not provided by the
13 facility shall be borne by the female.

14 (c) A ward who gives birth while under the jurisdiction of the
15 Department of Corrections and Rehabilitation, Division of Juvenile
16 Facilities or a community treatment program has the right to the
17 following services:

18 (1) Prenatal care.

19 (2) Access to prenatal vitamins.

20 (3) Childbirth education.

21 (d) ~~At no time shall a~~ A ward known to be pregnant *shall not*
22 *be shackled by the wrists, ankles, or both, including during any*
23 *transport to and from a juvenile facility, including, but is not limited*
24 *to, transport to and from a hospital or courthouse, during labor,*
25 *during delivery, and while in recovery after giving birth, unless*
26 *deemed necessary for the safety and security of the ward, the staff,*
27 *and the public. For purposes of transport to and from a local*
28 *juvenile facility, restraints may be used on a pregnant ward only*
29 *when deemed necessary for the ward. In these* *In cases where*
30 *restraints are deemed necessary,* the least restrictive restraints
31 possible shall be used, consistent with the legitimate security needs
32 of each ward, the staff, and the public. Upon arrival at the hospital,
33 once the ward has been declared by the attending physician to be
34 in active labor, the ward shall not be shackled by the wrists, ankles,
35 or both, unless deemed necessary for the safety and security of the
36 ward, the staff, and the public.

37 (e) Any physician providing services pursuant to this section
38 shall possess a current, valid, and unrevoked certificate to engage
39 in the practice of medicine issued pursuant to Chapter 5

1 (commencing with Section 2000) of Division 2 of the Business
2 and Professions Code.
3 (f) The rights provided to females by this section shall be posted
4 in at least one conspicuous place to which all female wards have
5 access.

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